

**REMARKS**

**General Remarks**

Claims 1-19 are all the claims currently pending in the present application.

The Examiner has acknowledged Applicant's claim for foreign priority and the receipt of the certified copy of the priority document. The Examiner has also approved the formal drawings filed March 8, 2001 and has returned duly signed and initialed copies of the PTO-Forms 1449 filed with Applicant's April 7, 2003 and October 30, 2003 IDSs.

Specification. The Abstract of the Disclosure stands objected to as exceeding 150 words in length. With this Amendment, Applicant amends the Abstract of the Disclosure in order to place it in proper form. In view of the amendments, Applicant respectfully requests that the Examiner's objection to the Abstract of the Disclosure be reconsidered and withdrawn.

Claims. Claims 1-19 stand rejected under 35 U.S.C. § 102(a) as allegedly anticipated by Schulte, W.: "Das Internet fur Unterwegs," XP000875170 ("Schulte"). Applicant respectfully traverses this rejection as discussed below.

**Claims 1-19 over Schulte**

With respect to the Examiner's §102(a) rejection of Claims 1-19 over Schulte, Applicant notes that to anticipate a claim under 35 U.S.C. § 102, the asserted reference must teach every element and limitation of the Applicant's claim. Rejections under §102 are proper only when the claimed subject matter is identically disclosed or described in the prior art.

Applicant respectfully submits that Shulte fails to disclose each and every limitation of the present invention, as claimed. Applicant further notes that in his rejection of each of the claims, the Examiner only refers broadly to Figures 1-5 of Schulte. Applicant respectfully submits that these figures fail to disclose the specific limitations of the present invention, as claimed.

Claim 1. Figures 1-5 of Schulte fail to disclose or suggest each limitation of Claim 1.

**A.** Schulte fails to disclose at least a content server, as recited in Claim 1, which performs data processing at a wireless datagram protocol (WDP) layer.

Figures 3 and 5 of Schulte illustrate protocol stacks including WDP layers. Figures 1 and 2 illustrate generic servers. However, there is no disclosure of on which layers these servers perform data processing.

**B.** Schulte also fails to disclose a content server, as claimed, processing a user request message for wireless internet service in accordance with wireless application protocol (WAP). Figure 1 of Schulte illustrates a mobile phone on a radionet (“funknetz”) transmitting an inquiry (“anfrage”) to a gateway. However, there is no disclosure of a user request for wireless internet service, and there is no disclosure of a content server processing such a request according to WAP.

**C.** Schulte further fails to disclose a relay, as claimed. There is no disclosure in Schulte of a relay. Further, there is no disclosure of a relay which relays a user request message for a wireless internet service or a response message in accordance with WAP at a layer below the

WDP layer. As discussed above, Figures 3 and 5 illustrate WDP layers as protocol layers within a protocol stack, but there is no disclosure of any terminal, relay, apparatus, server, or other element operating or processing at any specific protocol layer.

Claims 2-4. Applicant submits that Claims 2-4 are patentable at least by virtue of their dependence on Claim 1 and further, because Figures 1-5 of Schulte fail to disclose or suggest the following.

Regarding Claim 2, Schulte fails to disclose a relay, as claimed, intermediating between a content server and a WAP terminal at an Internet Protocol layer lower than a WDP layer. As discussed, Schulte fails to disclose any terminal, relay, apparatus, server, or other element operating or processing at any specific protocol layer.

Regarding Claim 3, Schulte fails to disclose a wireless application protocol terminal complying with any of a code division multiple access (CDMA) mode, a global system for mobile communication (GSM) mode, or an IMT2000 mode. Figure 3 illustrates a protocol layer including CDMA and GSM. However, there is no disclosure of a wireless terminal complying with one of these modes, nor is there any disclosure of an IMT2000 mode.

Regarding Claim 4, there is no disclosure of any kind in Schulte of any push service.

Claim 5. Applicant submits that Claim 5 is patentable over Schulte for the same reasons as presented above with respect to Claim 1, and further, because Schulte fails to disclose a wireless terminal, as claimed, outputting the contents of a response in accordance with WAP. There is no disclosure in Figures 1-5 of Schulte of any output of a wireless terminal.

Claim 6. Applicant submits that Figures 1-5 of Schulte fails to disclose any of the limitations of the present invention as recited in Claim 6.

A. Schulte fails to disclose a WAP server, as claimed. Therefore, Schulte also fails to disclose a WAP server performing data processing at a WDP layer. As mentioned above, Schulte fails to disclose any terminal, relay, apparatus, server, or other element operating or processing at any specific protocol layer.

B. Schulte also fails to disclose a WAP server converting a WAP request from a wireless application protocol terminal into a web service request, as claimed. There is no disclosure in Schulte of the conversion of a WAP request into a web request.

C. Schulte also fails to disclose transmitting a web service request from a WAP server to a web server or converting a response from a web server into a WAP response, as claimed. There is no disclosure of any transfer of information between a WAP server and a web server or any disclosure of the conversion of a web response into a WAP response.

D. Further, as discussed above with respect to Claim 1, Schulte fails to disclose a relay performing data processing at a layer below a WDP layer.

Claims 7-10. Applicant submits that Claims 7-10 are patentable at least by virtue of their dependence on Claim 6. Additionally, regarding Claims 9 and 10, Applicant submits that these claims are patentable for at least the same reasons as presented above with respect to Claims 2 and 3, respectively.

Claim 11. Applicant submits that Claim 11 is patentable over Schulte for the same reasons as presented above with respect to Claim 6, and further, as discussed with respect to Claim 5, because there is no disclosure in the Schulte figures of any output of a wireless terminal.

Claim 12. Applicant submits that Claim 12 is patentable over Schulte for the same reasons as presented above with respect to Claim 1.

Claims 13-15. Applicant submits that Claims 13-15 are patentable at least by virtue of their dependence on Claim 12, and for the following additional reasons.

Claim 13 is patentable for at least the same reasons as discussed above with respect to Claim 2.

Claim 14 is patentable for at least the same reasons as discussed above with respect to Claim 3.

Regarding Claim 15, the Schulte figures fail to disclose WAP service and web service provided together by a content server, supported by a software module, as claimed. Schulte fails to disclose any software module or any WAP service and web service provided together.

Claim 16. Applicant submits that Claim 16 is patentable over Schulte for the same reasons as presented above with respect to Claim 12, and further, as discussed with respect to Claim 5, because there is no disclosure in the Schulte figures of any output of a wireless terminal.

**AMENDMENT UNDER 37 C.F.R. §1.111**

U.S. Application No. 09/801,060

**Q62787**

Claim 17-19. Applicant submits that Claims 17-19 are patentable for at least the reasons presented above with respect to Claims 1, 6, and 12, respectively.

Conclusion, Claims 1-19. For at least the above presented reasons, Applicant submits that Schulte fails to anticipate any of Claims 1-19.

Additionally, as mentioned above, when attempting to establish the anticipation of a claim under §102, it must be shown that each claimed element is found within a single prior art reference. This is not the case with regard to Claims 1-19, as Schulte fails to disclose the above-discussed limitations. If the Examiner's position is to intimate that these limitations are inherent in the Schulte reference, the Examiner must provide evidence that the missing descriptive matter is "necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill."<sup>1</sup> Inherency may not be established by probabilities or possibilities. "The mere fact that a certain thing may result from a given set of circumstances is not sufficient."<sup>2</sup> Therefore, the Examiner has also failed to present any evidence that the above-discussed limitations of Claims 1-19 are inherent in the Schulte reference.

Therefore, Applicant respectfully requests that the Examiner's §102 rejection of Claims 1-19 over Schulte be reconsidered and withdrawn.

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<sup>1</sup> *Continental Can Co. USA Inc. v. Monsanto Co.*, 948 F.2d 1264,1269 (Fed. Cir. 1991)(emphasis added).

<sup>2</sup> *Id.* (citing *In re Oelrich*, 666 F.2d 578, 581 (Fed. Cir. 1981) quoting *Hansgirk v. Kemmer*, 102 F.2d 212, 214 (CCPA 1939))(emphasis in original).

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U.S. Application No. 09/801,060


**Q62787**

**Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned attorney at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

  
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